

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES WILLIAM KIRK,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting Commissioner  
of Social Security,

Defendant.

Case No. C16-5419-TSZ-BAT

**REPORT AND  
RECOMMENDATION**

Plaintiff appeals the denial of his application for disability benefits. Dkt. 1. The parties stipulate the case should be reversed and remanded. Dkt. 15. The Court has considered the stipulation and the record and recommends the case be **REVERSED** and **REMANDED** for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g) as follows: If the Commissioner does not issue a fully favorable decision on the record upon remand, then Plaintiff will have the opportunity for a de novo hearing. Upon remand, the Commissioner will further develop the record and issue a new decision. The Commissioner will reassess the nature and severity of the claimant's mental impairments, and provide the claimant an opportunity to augment the record with any school records, evaluative achievement testing, or other evidence to clarify the claimant's cognitive abilities; consider the limitations posed by the claimant's morbid obesity in evaluating his residual functional capacity; reevaluate the medical source opinions,

1 including the opinions of the State agency medical consultants; reassess the claimant's residual  
2 functional capacity and provide rationale for the assessed limitations; and, with the assistance of  
3 a vocational expert evidence, clarify the pace demands of the claimant's past work, and consider  
4 whether the claimant received and required accommodations to perform and sustain this work.  
5 Upon proper application, Plaintiff shall be eligible for attorneys' fees under the Equal Access to  
6 Justice Act, 24 U.S.C. § 2412 et seq.

7 Because the parties have stipulated the case be remanded as set forth above, the Court  
8 recommends that United States District Judge Thomas S. Zilly immediately approve this Report  
9 and Recommendation and order the case **REVERSED** and **REMANDED** for further  
10 administrative proceedings. A proposed order accompanies this Report and Recommendation.

11 DATED this 31st day of October, 2016.

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BRIAN A. TSUCHIDA  
14 United States Magistrate Judge  
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